

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF CONNECTICUT

3 - - - - - x
4 UNITED STATES OF AMERICA, : Case No 18cr43(VAB)
5 Government, :
6 vs. : 915 Lafayette Blvd
7 GERRY MATTHEWS, : Bridgeport, CT
8 Defendant. : March 7, 2018
9 - - - - - X

10 TRANSCRIPT OF PLEA HEARING

11 BEFORE: THE HONORABLE VICTOR A. BOLDEN, U.S.D.J.

12 APPEARANCES:
13 FOR THE GOVERNMENT: JOHN PIERPONT, ESQ.
14 U.S. Attorney's Office
15 157 Church Street
16 New Haven, CT 06510

17 FOR THE DEFENDANT: GEORGE MOWAD, ESQ.
18 Yamin & Grant
19 83 Bank St.
20 Waterbury, CT 06702

21
22 Sharon Montini, RMR, FCRR
23 915 Lafayette Blvd
24 Bridgeport, CT 06604
25 Official Court Reporter

1 THE COURT: Good morning. Please be
2 seated. All right, we're here on United States v.
3 Gerry Matthews. Will counsel please state their
4 appearances for the record.

5 MR. PIERPONT: Assistant United States
6 Attorney John Pierpont on behalf of the United
7 States. Joining me at counsel table is Special
8 Agent Stephen West of the FBI, Special Agent Sean
9 Darling of the IRS, and Financial Analyst Lisa
10 Carney from the FBI.

11 THE COURT: Good morning, Mr. Pierpont
12 and the whole crowd. I appreciate you all making it
13 out on what they say is supposed to be a very stormy
14 day.

15 MR. MOWAD: Good morning, your Honor.
16 George Mowad on behalf of the defendant, Mr. Gerry
17 Matthews, who is present and seated to my left at
18 the counsel table.

19 THE COURT: Good morning, Mr. Mowad.
20 Good morning, Mr. Matthews.

21 THE DEFENDANT: Good morning, sir.

22 THE COURT: I understand, Mr. Pierpont,
23 that the government's obligations under the Crime
24 Victims' Rights Act have been satisfied?

25 MR. PIERPONT: They have, your Honor.

1 THE COURT: And today we're here to
2 accept a guilty plea. Is it waiving indictment as
3 well? We are waiving indictment?

4 MR. PIERPONT: Waiver and plea, yes,
5 your Honor.

6 THE COURT: All right. Mr. Matthews, I
7 want to begin by telling you to take your time
8 during this proceeding. I know there is allegedly
9 weather out there and I know we have moved this
10 earlier in the day to sort of accommodate some of
11 the weather, but I am in no hurry. We'll take as
12 much time as we need to go through this proceeding.
13 I want to make sure before you leave here today that
14 you -- before you engage in any of the activities
15 you will engage in today, that you completely
16 understand what you are doing today. If at any time
17 you need -- you have any questions or issues or you
18 need more time to speak to Mr. Mowad, just let me
19 know and I will give you all of the time that you
20 need. Do you understand, sir?

21 THE DEFENDANT: I do, sir.

22 THE COURT: Thank you. Mr. Matthews,
23 before accepting your plea there are a number of
24 questions I must ask you while you are under oath to
25 assure myself it is a valid plea. Do you

1 understand, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: Ms. Perez, would you please
4 swear in Mr. Matthews.

5 (Oath administered)

6 THE COURT: All right. For the record,
7 I'm going to advise you of your rights. You have
8 the right to remain silent. You have the right not
9 to continue with a statement. Your statements can
10 be used against you. You have the right to counsel
11 at every stage of these proceedings. You have the
12 right to have counsel appointed if you cannot afford
13 counsel, and there is an attorney-client privilege
14 which allows you to speak confidentially with your
15 lawyer, Mr. Mowad. Do you understand these rights,
16 sir?

17 THE DEFENDANT: I do, your Honor.

18 THE COURT: And do you understand that
19 having been sworn you will be subject to the
20 penalties for perjury or for making a false
21 statement if you do not answer truthfully here
22 today?

23 THE DEFENDANT: I understand, sir.

24 THE COURT: And do you understand that
25 if the government chooses to prosecute you for

1 perjury or for making a false statement, it can use
2 against you any statement that you give here today
3 under oath? Do you understand that, sir?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: All right. Now, would you
6 please state your full name for the record, sir.

7 THE DEFENDANT: Gerry Daniel Matthews.

8 THE COURT: And have you ever used any
9 other name, sir?

10 THE DEFENDANT: No, sir.

11 THE COURT: What year were you born?

12 THE DEFENDANT: 1962.

13 THE COURT: And where were you born?

14 THE DEFENDANT: Leominster,
15 Massachusetts.

16 THE COURT: Are you a United States
17 citizen, sir?

18 THE DEFENDANT: I am.

19 THE COURT: Have you ever lived outside
20 of the United States?

21 THE DEFENDANT: No, sir.

22 THE COURT: And how far did you go in
23 school?

24 THE DEFENDANT: High school diploma,
25 sir.

1 THE COURT: Are you now, or have you
2 recently been, under the care of a physician,
3 psychiatrist, social worker or counselor?

4 THE DEFENDANT: No, sir.

5 THE COURT: In the past 48 hours have
6 you taken any narcotic drugs, medicine or pills?

7 THE DEFENDANT: Just synthroid for --
8 just synthroid medicine.

9 THE COURT: So you take medication
10 prescribed by a physician for something?

11 THE DEFENDANT: I do, sir.

12 THE COURT: And that medication, does
13 that affect your understanding of what is going on
14 here today, sir?

15 THE DEFENDANT: No.

16 THE COURT: In the past 48 hours have
17 you consumed any alcoholic beverages?

18 THE DEFENDANT: Glass of wine with
19 dinner last night, sir.

20 THE COURT: And that glass of wine is
21 not having any lasting effects on your ability to
22 understand the proceedings today?

23 THE DEFENDANT: No, sir.

24 THE COURT: It's not creating any clouds
25 of memory or anything of that nature?

1 THE DEFENDANT: No, sir.

2 THE COURT: Have you ever been
3 hospitalized or treated for alcoholism or narcotics
4 addiction?

5 THE DEFENDANT: No, sir.

6 THE COURT: And so today, as you are
7 here before me, is your mind clear?

8 THE DEFENDANT: It is, sir.

9 THE COURT: And you do have the capacity
10 and ability to understand what's going on here?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Mowad, are you sure that
13 Mr. Matthews understands the nature of these
14 proceedings?

15 MR. MOWAD: Yes, sir.

16 THE COURT: And have you had any
17 difficulty in communicating with him?

18 MR. MOWAD: No, sir.

19 THE COURT: And you have the discussed
20 this case with him?

21 MR. MOWAD: Yes, sir. We have spent
22 several hours going over this over several days and
23 weeks.

24 THE COURT: And you believe he
25 understands the rights he will be waiving by waiving

1 indictment and pleading guilty?

2 MR. MOWAD: Yes, sir.

3 THE COURT: Do you have any doubt as to
4 his competence to plead guilty at this time?

5 MR. MOWAD: No, sir.

6 THE COURT: Mr. Matthews, have you had
7 an opportunity to discuss your case with Mr. Mowad?

8 THE DEFENDANT: I have, sir.

9 THE COURT: And are you satisfied with
10 the representation you have been provided?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, I understand that you
13 wish to waive indictment. Before you do so, I need
14 to make sure you understand the exact nature of the
15 right you are waiving. You have a constitutional
16 right to be charged by an indictment of a grand jury
17 based upon a finding by the grand jury of probable
18 cause to believe that you committed the crime.

19 A grand jury is composed of at least 16,
20 and not more than 23, persons, and at least 12 of
21 the grand jurors must find that there is probable
22 cause to believe that you committed the crime with
23 which you are charged before you may be indicted.
24 If you waive indictment by the grand jury, the case
25 will proceed against you just as though you had been

1 indicted on the basis of a charging document known
2 as an information. That information is signed and
3 filed by the United States attorney and without any
4 review or finding of probable cause by citizens of a
5 grand jury.

6 Unless you waive indictment, you may not
7 be charged with a felony unless a grand jury finds
8 by a return of an indictment that there is probable
9 cause to believe that a crime has been committed and
10 that you committed it. Do you understand all of
11 that, sir?

12 THE DEFENDANT: I do.

13 THE COURT: Mr. Matthews, have you been
14 provided a copy of the information that the
15 government wishes to file against you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Pierpont, what is the
18 nature of the charge against Mr. Matthews and the
19 maximum sentence to which he could be exposed and
20 any mandatory minimum sentence that may apply?

21 MR. PIERPONT: So Mr. Matthews, your
22 Honor, would be waiving indictment and pleading
23 guilty to one count of conspiracy to commit wire
24 fraud, in violation of 18, United States Code,
25 Section 1349. That carries a maximum term of

1 imprisonment of 20 years, a maximum fine of
2 \$250,000, a term of supervised release of up to
3 three years, and a \$100 special assessment.

4 THE COURT: All right. Thank you very
5 much, Mr. Pierpont.

6 Mr. Matthews, do you understand the
7 charges against you?

8 THE DEFENDANT: I do.

9 THE COURT: And do you understand the
10 penalties that are associated with those charges?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: Have you discussed waiving
13 your right to indictment by the grand jury with Mr.
14 Mowad?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you need more time to
17 talk to Mr. Mowad about waiving your right to
18 indictment?

19 THE DEFENDANT: No, sir.

20 THE COURT: Have any threats or promises
21 been made to induce you to waive indictment?

22 THE DEFENDANT: No, sir.

23 THE COURT: And do you wish to waive
24 your right to indictment by a grand jury and to
25 allow the charge to be based on the information

1 filed by the United States attorney?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Mr. Mowad, is
4 there any reason Mr. Matthews should not waive
5 indictment?

6 MR. MOWAD: No, sir.

7 THE COURT: All right, at this time why
8 don't you go ahead and sign the waiver of indictment
9 form.

10 MR. MOWAD: May I approach, your Honor?

11 THE COURT: Yes, please.

12 Based on the representations made to me
13 by Mr. Matthews and by his counsel, Mr. Mowad, and
14 the signed waiver of indictment form that has been
15 executed, I do find that this waiver of indictment
16 is knowingly and voluntarily made, and it is
17 accepted, and I have signed it.

18 Mr. Pierpont, would you file the
19 information with Ms. Perez.

20 MR. PIERPONT: Yes, your Honor.

21 THE COURT: All right, now turning to
22 the plea. Mr. Matthews, have you had enough
23 opportunity and information to discuss your case
24 with Mr. Mowad?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And do you believe he has
2 answered your questions well enough and given you
3 enough advice and guidance for you to make a
4 decision about pleading guilty today, sir?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And do you have any concerns
7 about whether Mr. Mowad has done a good job for you?

8 THE DEFENDANT: None at all, sir.

9 THE COURT: All right. What I'm going
10 to do now, sir, is I'm going to review with you the
11 various rights that you would have that you would be
12 giving up if you decide to plead guilty today. I'm
13 going to go through each of them to make sure that
14 you are aware of them before you enter your guilty
15 plea. Please listen carefully because at the end of
16 this review I'm going to ask you if you understand
17 them and that you know you are waiving every one of
18 those rights by entering a plea of guilty.

19 The first and the most important thing
20 you must understand is that you do not have to plead
21 guilty even if you think you are guilty. Instead,
22 you can require the government to prove its case at
23 trial. Under our system of law the prosecutor has
24 the burden of proving the guilt of a defendant
25 beyond a reasonable doubt, and if the prosecutor is

1 unable to meet this burden, the jury has the duty to
2 find the defendant not guilty.

3 It sometimes happens in American
4 courtrooms that a jury returns a verdict of not
5 guilty, and what the jury was saying in those cases
6 is not necessarily that it found the defendant to be
7 innocent, but, rather, that the government failed to
8 meet its burden of proving beyond a reasonable doubt
9 that the defendant was guilty. Do you understand,
10 sir?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So even if you believe you
13 are guilty, you do have a choice. You may plead
14 guilty, as you apparently now wish to do, or you can
15 change your mind and say to the government "meet
16 your burden of proving my guilt beyond a reasonable
17 doubt." And the way you exercise that option is by
18 saying "not guilty" when I ask you how you wish to
19 plead. You have a right to plead not guilty, and
20 once you plead not guilty, or if you've already pled
21 not guilty, you have a right to persist in that
22 plea. Do you understand, sir?

23 THE DEFENDANT: I do, sir.

24 THE COURT: If you plead not guilty, the
25 Constitution and federal laws entitle you to a

1 speedy, public trial by jury with the assistance of
2 a lawyer at every stage of the proceedings on the
3 charge in the information. If you could not afford
4 counsel, you would have the right to have counsel
5 appointed to represent you. At the trial you would
6 be presumed innocent and the government would have
7 to overcome that presumption by proving you guilty
8 of each and every element of the crimes charged by
9 competent evidence and beyond a reasonable doubt.
10 You would not have to prove that you were innocent.
11 If the government were to fail to prove each and
12 every element of the crimes charged, the jury would
13 have the duty to find you not guilty. Do you
14 understand, sir?

15 THE DEFENDANT: I do, sir.

16 THE COURT: In the course of a trial the
17 witnesses for the government would have to come to
18 court to testify in your presence, and your counsel
19 would have the right to cross-examine the witnesses
20 for the government, to object to evidence offered by
21 the government, to offer evidence on your behalf, as
22 well as to use a subpoena to obtain the attendance
23 of witnesses to testify at trial on your behalf.

24 At trial, while you would have the right
25 to testify if you chose to do so, you also could not

1 be required to testify. You have a constitutional
2 right not to be compelled to take the stand at a
3 criminal trial against yourself. If you decide not
4 to testify, the Court would instruct the jury that
5 you were exercising your right and that it could not
6 hold that against you.

7 If you decide to plead guilty, however,
8 I will have to ask you questions about what you did
9 in order to satisfy myself that you are in fact
10 guilty, and you have to answer my questions and
11 admit your guilt.

12 If you plead guilty and I accept your
13 plea as valid, you will be giving up your
14 constitutional right to a trial and all of the other
15 rights I have just discussed. There will be no
16 trial of any kind and no right to appeal the
17 conviction, although under some circumstances you or
18 government may have the right to appeal any sentence
19 I impose. So I would simply enter a finding of
20 guilty on the basis of your guilty plea. Do you
21 understand, sir?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And do you understand all of
24 the rights I have just reviewed with you, sir?

25 THE DEFENDANT: I do.

1 THE COURT: Do you have any questions
2 about anything I have already said?

3 THE DEFENDANT: No questions, sir.

4 THE COURT: All right. Mr. Matthews,
5 are you willing to give up your right to a trial?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you willing to give up
8 the other rights I have just discussed as well?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: The offense to which you
11 intend to plead guilty is a felony offense, and if
12 your plea is accepted you will be found guilty of
13 this offense and you will be subject to sentencing,
14 as I will describe to you in detail in a few
15 minutes, but you also will be subject to other
16 collateral consequences and demands. You will be
17 deprived of valuable civil rights, such as the right
18 to vote, the right to hold public office, the right
19 to serve on a jury, and the right to possess any
20 kind of firearm. A DNA sample will be collected
21 from you to be used by the Bureau of Prisons or the
22 probation office for analysis and indexing and
23 inclusion in a federal database. You said you are a
24 citizen, but if you were not, you could be deported
25 or removed from the United States, denied

1 citizenship and denied admission to the United
2 States in the future.

3 Finally, your guilty plea today may work
4 to your disadvantage in the future if you are found
5 guilty of another crime because there is a
6 possibility you could receive a more severe penalty
7 at that time as a result of this guilty plea and
8 conviction.

9 Mr. Matthews, do you understand the
10 additional consequences of pleading guilty?

11 THE DEFENDANT: I do, sir.

12 THE COURT: Are you willing to accept
13 all of those consequences and still willing to give
14 up your right to a trial and the other rights I have
15 discussed?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Is anyone threatening you or
18 forcing you to enter a plea of guilty today, sir?

19 THE DEFENDANT: No, sir.

20 THE COURT: Do you want more time to
21 talk to Mr. Mowad about giving up your right to
22 trial and pleading guilty?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You do want more time to
25 talk to him?

1 THE DEFENDANT: Oh, excuse me. No, sir,
2 I'm set all.

3 THE COURT: That's fine. If you want
4 more time, that's fine as well. Either way.

5 THE DEFENDANT: No, sir.

6 THE COURT: Mr. Mowad, are you sure that
7 Mr. Matthews has had enough time and received enough
8 information and guidance from you about the strength
9 of the government's case and the strength of any
10 defense case such that he's able to make a knowing,
11 intelligent and voluntary choice to plead guilty
12 here today?

13 MR. MOWAD: Yes, sir.

14 THE COURT: And are you convinced that
15 he understands the rights he will be waiving by
16 pleading guilty?

17 MR. MOWAD: Yes, sir.

18 THE COURT: Are you convinced that he
19 understands the minimum and maximum sentence
20 involved here?

21 MR. MOWAD: Yes, sir.

22 THE COURT: Thank you very much, Mr.
23 Mowad.

24 Mr. Pierpont, I understand that there is
25 a written plea agreement; is that correct?

1 MR. PIERPONT: That is correct, your
2 Honor.

3 THE COURT: Mr. Mowad, have you and Mr.
4 Matthews seen this?

5 MR. MOWAD: We have, your Honor.

6 THE COURT: Mr. Matthews, have you read
7 the plea agreement carefully, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Would you like a
10 recess or more time to review the plea agreement or
11 talk to Mr. Mowad about whether this really is an
12 agreement you wish to enter into?

13 THE DEFENDANT: It's not required, sir.

14 THE COURT: Mr. Pierpont, would you
15 outline the terms of the plea agreement.

16 MR. PIERPONT: Yes, your Honor. The
17 plea agreement is a nine-page letter dated today,
18 March 7, 2018, addressed to Attorney Mowad.

19 The first page lays out the elements of
20 the offense to which Mr. Matthews will be pleading
21 guilty. As I said before, that will be one -- it's
22 a one-count information charging a violation of 18,
23 United States Code, Section 1349.

24 That crime has two elements: First,
25 that two or more persons in some way or manner

1 agreed to try to accomplish a common and unlawful
2 plan to commit wire fraud as charged in the
3 information; and two, that the defendant knew the
4 unlawful purpose of the plan and willfully joined
5 into it.

6 Page 2 of the letter contains the
7 penalties. I have gone over these already, but
8 again, your Honor, the offense carries a maximum
9 penalty of 20 years' imprisonment, a term of
10 supervised release of not more than three years, a
11 maximum fine of \$250,000, and a special assessment
12 of \$100.

13 There is also a section on restitution.
14 Restitution in this case is mandatory under 18,
15 United States Code, Section 3663A.

16 I would note that there is a paragraph
17 in here particularly that allows -- where the
18 defendant explicitly reserves his right to move the
19 Court to apportion restitution among this defendant
20 and other separately charged liable defendants in a
21 manner other than jointly and severally, pursuant to
22 18, United States Code, Section 3664(h), and the
23 government, for its part, agrees to respond to any
24 such motion consistent with the facts underlying the
25 conspiracy.

1 Page 3 talks a little bit about the
2 sentencing guidelines and their applicability here.
3 There is also a section about acceptance of
4 responsibility. At this time the government agrees
5 to recommend to the Court to reduce by two levels
6 the defendant's adjusted offense level under Section
7 3E1.1(a), and to later make another motion provided
8 the defendant still qualifies for an additional
9 point as well.

10 The government does reserve the right to
11 seek denial of the adjustment for acceptance of
12 responsibility if the defendant engages in any acts
13 unknown to the government at the time of the signing
14 of the agreement which indicates -- and there are a
15 couple of things laid out here, but indicates among
16 them that the defendant has not terminated or
17 withdrawn from criminal conduct or associations.

18 On to page 4, your Honor, there is a
19 waiver of a right to appeal or collaterally attack
20 the sentence. Except for very limited
21 circumstances, the defendant will not be allowed to
22 challenge his conviction in this matter. The
23 defendant agrees not to appeal or collaterally
24 attack his sentence in this matter provided the
25 sentence does not exceed 240 months' imprisonment, a

1 three-year term of supervised release, a \$100
2 special assessment, a \$250,000 fine, and restitution
3 in any amount ordered by the Court.

4 Turning to page 5, there are waiver of
5 rights here. Your Honor went through them, but the
6 waiver of right to indictment, the waiver of trial
7 rights and consequences of a guilty plea, and waiver
8 of the statute of limitations to the extent that is
9 an issue in this case.

10 Page 5 to 6 talks about the
11 acknowledgement of guilt and voluntariness of the
12 plea. It also talks about the scope of the
13 agreement and some of the collateral consequences
14 that your Honor has gone over already.

15 Bottom of page 6 talks about the
16 satisfaction of federal criminal liability. And
17 page 7 has a section entitled No Other Promises.

18 I would add, your Honor, that page 8 and
19 9 contain a rider on restitution.

20 THE COURT: Thank you very much, Mr.
21 Pierpont.

22 What I'm going to do now, Mr. Matthews,
23 is highlight certain provisions of the plea
24 agreement. I will begin by describing how
25 sentencing works.

1 As to any possible term of imprisonment,
2 supervised release, criminal fine and other parts of
3 a sentence, there are several things you must know.
4 First, I cannot impose a sentence above what the
5 statutory maximum sentence is or below any mandatory
6 minimum, but I have discretion to determine where
7 within that minimum and maximum the sentence should
8 be, and that exercise of discretion will be based in
9 large part on the arguments and facts set forth by
10 the government and by you through your defense
11 counsel, as well as the advice I receive from the
12 United States Probation Office which will prepare a
13 presentence investigation report.

14 Second, in deciding what sentence to
15 impose, I must consider the factors set forth in the
16 principal sentencing statute, 18 U.S.C. Section
17 3553. Those factors include the nature and
18 circumstances of the crime, as well as your personal
19 history and character. I have to decide upon a
20 sentence that reflects the seriousness of the crime,
21 that promotes respect for the law, and that provides
22 just punishment. I also must consider what sentence
23 is needed to protect the public and to deter others
24 from engaging in criminal conduct, in addition to
25 what sentence may serve rehabilitation goals such as

1 to provide you with educational or vocational
2 training and medical care if needed. And the
3 statute commands me to consider the need to provide
4 restitution and the need to avoid unwarranted
5 sentence disparities among defendants who have
6 similar backgrounds and who have been convicted of
7 similar criminal conduct.

8 Third, I have to consider what sentence
9 is recommended by the United States sentencing
10 guidelines. I do not have to follow what the
11 guidelines say, and I may depart or vary upward or
12 downward from the guidelines, but that
13 recommendation must be considered. Based
14 principally on the seriousness of the crimes and on
15 the defendant's past criminal behavior, the
16 guidelines provide a presumptive sentencing range,
17 i.e., a maximum and minimum sentence within the
18 statute's permissible range. There may, however, be
19 factors that would be present that would allow a
20 departure from this presumptive guideline range. So
21 there may be factors about your case that would
22 cause me to sentence you to a longer or shorter term
23 of imprisonment than the guidelines calculations.

24 Until you are sentenced, which will be
25 after I receive a presentence report and hear from

1 you, from your lawyer, and from the government, you
2 cannot know with certainty what the guidelines
3 recommendations will be, whether there will be
4 grounds to depart from the guidelines, and what the
5 ultimate sentence actually will be.

6 Moreover, in deciding what sentence to
7 impose, I will very strongly consider, but I am not
8 bound by, what you and the government have agreed to
9 regarding sentencing in your plea agreement.

10 Therefore, you won't know your sentence until the
11 day of sentencing. And if I calculate your sentence
12 differently from what the sentencing guidelines
13 suggest or from what you and the government agreed
14 to or from what you hoped for, this does not allow
15 you to have the sentence cancelled, to withdraw your
16 guilty plea and to have the case go to trial. Do
17 you understand that, Mr. Matthews?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: And do you understand that I
20 can impose a sentence more severe than you may
21 expect?

22 THE DEFENDANT: I do, your Honor.

23 THE COURT: Mr. Matthews, do you have
24 any questions about what I have explained about how
25 your sentence will be determined?

1 THE DEFENDANT: No, your Honor.

2 THE COURT: I understand you wish to
3 plead guilty to Count No. One of the information,
4 conspiracy to commit wire fraud. I want to discuss
5 with you the penalties and the sentencing scheme
6 that are applicable in your case if you do plead
7 guilty.

8 I want you to understand if you plead
9 guilty to this count you may be sentenced as
10 follows: A maximum term of imprisonment of
11 20 years; a maximum supervised release term of up to
12 three years, and if you were to violate any
13 condition of supervised release I could then
14 sentence you to additional time in prison for as
15 much as a maximum of two years with no credit for
16 the time already spent on supervised release; that
17 you may be fined -- you may be assessed a fine of as
18 much as \$250,000; that I must impose a mandatory
19 special assessment of \$100; that you may be ordered
20 to make restitution. And you should know that
21 parole has been abolished, and so if you are
22 sentenced to prison, you will not be released on
23 parole.

24 Do you understand that your sentence
25 could be increased for a variety of reasons, for

1 example if it is determined you have a more serious
2 criminal history than we understand to be the case
3 now? Do you understand that, sir?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: Have you discussed this
6 possibility with Mr. Mowad?

7 THE DEFENDANT: I have, sir.

8 THE COURT: Do you understand if such
9 matters are brought to my attention and I decide to
10 increase your sentence because of them, you may not
11 withdraw your guilty plea? Do you understand that?

12 THE DEFENDANT: I do, your Honor.

13 THE COURT: All right. Mr. Matthews, in
14 your plea agreement there are also references to
15 rights to appeal. Do you understand those rights,
16 sir?

17 THE DEFENDANT: I do, sir.

18 THE COURT: Mr. Pierpont, have you
19 disclosed to the Court any and all provisions
20 concerning waiver of appeal rights in the plea
21 agreement?

22 MR. PIERPONT: Yes, your Honor.

23 THE COURT: Mr. Matthews, have these
24 provisions concerning waiver of appeal rights been
25 fully explained to you?

1 THE DEFENDANT: They have, sir.

2 THE COURT: So you do understand them?

3 THE DEFENDANT: I do, sir.

4 THE COURT: So in the plea agreement you
5 voluntarily, knowingly and intelligently waive your
6 right to appeal or to attack the conviction or
7 sentence of imprisonment imposed by the Court
8 collaterally if that sentence does not exceed the
9 following: 240 months; a three-year term of
10 supervised release; a \$100 special assessment; a
11 \$200,000 fine; and, restitution in any amount
12 ordered by the Court, even if the Court imposes such
13 a -- yes, did I screw something up?

14 MR. PIERPONT: I may have misheard.

15 THE COURT: No, I may have screwed it
16 up.

17 MR. PIERPONT: It is \$250,000.

18 THE COURT: What did I say?

19 MR. PIERPONT: I thought I heard
20 200,000, but I want to make sure. I just want to
21 make sure.

22 THE COURT: Yes, you are right. I am
23 looking at the transcript there.

24 MR. PIERPONT: Thank you, your Honor.

25 THE COURT: Ms. Montini correctly got

1 what I said, which was incorrect.

2 So, yes, I'm sorry, it is a 240-month
3 term of imprisonment, a three-year term of
4 supervised release, \$100 special assessment,
5 \$250,000 fine, and restitution in the amount ordered
6 by the Court.

7 So even if the Court imposes such a
8 sentence based on an analysis different from that
9 set forth in your plea agreement, you have waived
10 your right to appeal or collaterally attack that
11 conviction or sentence, and you should know that
12 such waivers are generally enforceable. Do you
13 understand all of this, sir?

14 THE DEFENDANT: I do, your Honor.

15 THE COURT: And, Mr. Mowad, are there
16 any sentencing issues that you believe would survive
17 this waiver?

18 MR. MOWAD: No, your Honor.

19 THE COURT: All right. Mr. Matthews, if
20 despite this waiver you wish to appeal some issue
21 that is claimed to survive it, you must file a
22 notice of appeal within 14 days of sentencing. Do
23 you understand that deadline, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And are you willing to waive

1 the appeal rights just described, sir?

2 THE DEFENDANT: I am, sir.

3 THE COURT: Now, Mr. Matthews, turning
4 to the elements of the offense. I know Mr. Pierpont
5 has sort of already articulated them. I will just
6 sort of ask him to reiterate them because I
7 certainly think it is a critical part of it.

8 So you are charged with a violation of
9 18 U.S.C. Section 1349, conspiracy to commit wire
10 fraud. I'm going to ask Mr. Pierpont again to
11 explain the elements of the offense to which you
12 will plead guilty. And by "elements," sir, I mean
13 those facts that the government would have to prove
14 beyond a reasonable doubt before you could be
15 convicted were you to decide to plead not guilty and
16 instead proceeded to trial. And I want you to bear
17 in mind that the government would have to prove each
18 of those facts by persuading a jury of 12 persons
19 that those facts were true beyond a reasonable
20 doubt. Do you understand, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Mr. Pierpont.

23 MR. PIERPONT: Yes, your Honor. 18
24 U.S.C. Section 1349 contains two elements that the
25 government would have to demonstrate beyond a

1 reasonable doubt for there to be a conviction. The
2 first is that two or more persons in some way or
3 manner agreed to try to accomplish a common unlawful
4 plan to commit wire fraud as described in the
5 information, and second, that the defendant knew of
6 the unlawful purpose of the plan and willfully
7 joined it.

8 THE COURT: Thank you very much, Mr.
9 Pierpont.

10 Do you understand the elements of the
11 offense, Mr. Matthews?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you have any questions
14 about any of the elements of this offense?

15 THE DEFENDANT: No, sir.

16 THE COURT: So now what we're going to
17 do, Mr. Matthews, is turn to the conduct that brings
18 us here today. I'm going to ask you to tell me in
19 your own words what you did that shows that you are,
20 in fact, guilty of the charge to which you are now
21 offering to plead guilty.

22 THE DEFENDANT: Yes, sir. On
23 October 15, 2014, for the first time I was told that
24 I owned a 99 percent interest in Palm House, LLC,
25 owner of the Palm House Hotel, located in Palm

1 Beach, Florida. I was told that my brother, Robert
2 Matthews, had been stealing money from the hotel and
3 that if I didn't assign my interest over immediately
4 I could be held responsible.

5 Later that day I called my brother and
6 he confirmed that on paper I did hold a 99 percent
7 interest in the Palm House, LLC. A few days later I
8 found out that my name had been forged on the
9 operating agreement for the Palm House, LLC.

10 On October 22, 2014, I gave my brother
11 power of attorney to act on my behalf in all
12 elements related to the Palm House, LLC. I also let
13 my brother use a savings account I had up here in
14 Connecticut where monies were wired in and wired
15 out, all at his direction.

16 I regret my actions and I am here to
17 accept responsibility for such.

18 THE COURT: All right. Just to make
19 sure I understand exactly, what was the unlawful
20 plan to commit wire fraud particularly --
21 specifically that you were engaged in with your
22 brother?

23 THE DEFENDANT: He used my bank account
24 to wire money in and wire money out.

25 THE COURT: I see. So what you are

1 saying is that your brother used money from a bank
2 account that you had to wire money in and out for --
3 I assume for an illegal purpose. And the illegal
4 purpose was what?

5 THE DEFENDANT: He -- may I speak?

6 THE COURT: You can consult with Mr.
7 Mowad.

8 (Discussion held off the record)

9 THE DEFENDANT: Sir?

10 THE COURT: Yes.

11 THE DEFENDANT: May I?

12 THE COURT: Yes.

13 THE DEFENDANT: Thank you. I allowed my
14 brother to wire funds into my savings account, and
15 at his direction the funds were then wired out. It
16 was after the fact that I found out that he was
17 wiring money in and out for what could be unlawful
18 purposes as it relates to the EB-5 program in Palm
19 Beach, Florida.

20 THE COURT: All right. So you are
21 saying that you knew it was unlawful what he was
22 doing?

23 THE DEFENDANT: At the time I did not
24 know it was unlawful.

25 THE COURT: You can consult, Mr. Mowad.

1 (Discussion held off the record)

2 THE DEFENDANT: Sir, at the time that
3 the funds were wired in and out I did not know it
4 was unlawful. When I found out about it, I let it
5 continue.

6 THE COURT: Okay, thank you.

7 All right, now I'm going to ask Mr.
8 Pierpont to summarize what you did that makes you
9 guilty of the charge to which you intend to plead
10 guilty and to summarize the government's evidence as
11 to the charge against you. Please listen carefully
12 because when Mr. Pierpont is finished I'll ask
13 whether you agree with his summary of what you did.

14 Mr. Pierpont.

15 MR. PIERPONT: Thank you, your Honor.
16 So the government has been conducting a wide-scale
17 investigation into the misuse and misappropriation
18 of funds connected with the development of the Palm
19 House Hotel down in Florida, and in particular
20 taking a look at one individual who is Mr. Matthews'
21 brother, Robert Matthews, who was the lead
22 developer.

23 Money was used to develop that project
24 in connection with a program called the EB-5
25 program. The EB-5 visa program is a program by

1 which wealthy foreign investors can invest money in
2 projects here in the United States, and if they
3 invest between 500,000 and a million dollars and
4 create ten jobs, they're entitled to a green card or
5 some sort of lawful status. And that's the heart of
6 it. There are a couple of other requirements as
7 well.

8 So the money is coming in from these
9 foreign investors. Misrepresentations were made by
10 Bob Matthews to these foreign investors about the
11 Palm House Hotel, who will be working at the Palm
12 House Hotel, who will be on the advisory board of
13 the Palm House Hotel, and who would be members of
14 the Palm House Hotel.

15 Additionally, misrepresentations were
16 made to the lending entity about how the funds would
17 be used. Specifically, representations were made
18 that they would be used only for the development of
19 the Palm House Hotel. In fact, as the government
20 would demonstrate, these funds were misappropriated
21 and were sent through a variety of accounts,
22 including Mr. Gerry Matthews.

23 , a savings account up here in
24 Connecticut in his name.

25 Mr. Gerry Matthews, without his

1 knowledge, was put on paper as the 99 percent owner
2 of the entity that controlled the Palm House Hotel.
3 In October of 2014, Mr. Matthews was confronted
4 with, one, the knowledge that he was the owner of
5 the Palm House Hotel, and had been since 2012, and
6 two, the fact that his brother had been stealing
7 money from the Palm House Hotel.

8 Once he found out about that
9 information, Mr. Matthews took -- Mr. Gerry Matthews
10 took additional steps to help further the
11 conspiracy, both as Mr. Gerry Matthews has
12 described, and also by taking steps to help his
13 brother continue to maintain control of the Palm
14 House Hotel as against these investing entities, and
15 other individuals as well.

16 And so Mr. Gerry Matthews joins the
17 conspiracy at least by October of 2014 and takes
18 affirmative steps to help further it after that
19 point.

20 THE COURT: And just to be sure I'm
21 clear, what is the government's understanding of the
22 further steps Mr. Gerry Matthews took?

23 MR. PIERPONT: So the government's
24 understanding of the further steps that were took,
25 there are a couple that are listed specifically in

1 the information; that is, first executing a power of
2 attorney on or about October 20th so that Mr. Robert
3 Matthews could continue to act in Gerry Matthews'
4 name and control the Palm House Hotel. Again, it's
5 the government's position here that the fact that
6 the Palm House Hotel was in Gerry Matthews' name was
7 a sham from the get-go because he wasn't even aware
8 that he was the owner of it, but he's taking steps
9 to add a veneer of legitimacy there.

10 He began to send letters as well
11 changing the membership and ownership, the
12 management structure of the property as well after
13 that time period, and I believe there were some
14 wires that continued to go through.

15 In fact, just give me one second, your
16 Honor.

17 THE COURT: Yes, please.

18 (Discussion held off the record).

19 MR. PIERPONT: So those right now would
20 be affirmative acts that the government would put on
21 the record that Mr. Gerry Matthews took to further
22 the conspiracy once he became aware of what his
23 brother was doing at the Palm House Hotel.

24 THE COURT: And just recount for me
25 again -- I just want to make sure I understand

1 clearly. I have read this. So there is this --
2 what was the underlying scheme in relation to the
3 EB-5 program? It was to do what?

4 MR. PIERPONT: Sure. So the victims in
5 this matter -- I guess I'll maybe start there. So
6 you have these foreign investors who are investing
7 money.

8 THE COURT: And they're investing the
9 money with the notion that this was going to help
10 with their immigration status?

11 MR. PIERPONT: That's right, they were,
12 and they were going to make money on the project as
13 well.

14 THE COURT: Yep.

15 MR. PIERPONT: The idea is it was an
16 investment where they are going to put money into
17 the Palm House Hotel. The Palm House Hotel in turn
18 would make money and they would get a return on
19 that. They would also collect -- they would also,
20 if they created ten jobs as well, be entitled to a
21 lawful permanent status here in the United States or
22 a green card.

23 In connection with getting those foreign
24 investors to invest money, Bob Matthews made
25 misrepresentations. Those are detailed in the

1 information that the government has filed here, but
2 they include, amongst others, as to who would be on
3 the advisory board. It included pictures of Donald
4 Trump and Hillary Clinton, Bill Clinton. There is
5 no indication that they were in any way involved in
6 the advisory board. There were discussions about
7 wealthy individuals, including the Koch brothers,
8 one of the Koch brothers and others, that were going
9 to be owners or part owners of some of the
10 residential units within the Palm House Hotel. That
11 also was not true.

12 These sorts of misrepresentations, your
13 Honor, were made to induce EB-5 money to come into
14 the country for development at the Palm House Hotel.
15 And it was at that point, once the money is coming
16 in, that Bob Matthews and his co-conspirators began
17 to divert it for other purposes for which that money
18 was not intended. One way that they did that was
19 wiring money through Gerry Matthews' account, and
20 then that money in turn would be used for -- to go
21 into other accounts that were owned by Bob Matthews
22 and his co-conspirators, and was just generally to
23 sustain their lifestyle, to include buying houses
24 out of foreclosure, buying properties in
25 Connecticut, paying off mortgages, and paying their

1 taxes as well.

2 THE COURT: So some of the funds that
3 Bob Matthews was receiving from these foreign
4 investors was going in Gerry Matthews' account.

5 MR. PIERPONT: That is correct.

6 THE COURT: Gerry Matthews' account.
7 And at some point in time what you are saying is
8 that Gerry Matthews then knew that's what his
9 brother was using the account for and allowed it to
10 continue, and that's essentially how he is now tied
11 into this conspiracy.

12 MR. PIERPONT: That's right, your Honor.
13 And I want to be very clear about what I am saying,
14 because what I am saying on the record here is that
15 the affirmative steps that Gerry Matthews took --
16 and I don't have this information in front of me
17 right now. There was a lot of money that moved in
18 and out of Gerry Matthews' account. I don't know
19 the exact timing of when money going into that
20 account ended, but, in any event, the affirmative
21 steps whereby Gerry Matthews joined the conspiracy
22 and helped further the conspiracy was to actually
23 begin to act as an owner of the Palm House Hotel and
24 take steps in his ownership interest when, in fact,
25 he was the owner on paper only and the whole thing

1 -- in other words, it added I think a veneer of
2 legitimacy to the Palm House Hotel. That's what the
3 government's proffer of facts are right now.

4 THE COURT: Okay, hang on one second. I
5 just want to make sure it's clear in my head. Do we
6 have a ballpark figure? What are we talking about
7 in terms of funds in this account?

8 MR. PIERPONT: Generally or just into
9 Mr. Gerry Matthews' account?

10 THE COURT: Yes, Mr. Gerry Matthews'
11 account.

12 MR. PIERPONT: So I think the government
13 has a number that is around 3 million and change
14 that went through the account, and we have thus far
15 been able to tie a third to a half of it to EB-5
16 money.

17 You have to understand, your Honor, that
18 there are a lot of accounts in play and it's moving
19 through a lot of different steps, and we're
20 obviously trying to be as conservative as possible
21 for time. For instance, I know there is one
22 \$700,000 wire, which would very much change what
23 percentage, and we're still working on looking at
24 whether the source of that money is EB-5 money.

25 THE COURT: So Gerry Matthews allows Bob

1 Matthews -- is that correct?

2 MR. PIERPONT: That's correct.

3 THE COURT: Bob Matthews to place
4 various sums -- significant various sums of money
5 into his account.

6 MR. PIERPONT: That's right.

7 THE COURT: Which Gerry Matthews then
8 understands to be for a purpose -- at some point he
9 understands it's for a purpose that certainly is
10 illicit.

11 MR. PIERPONT: That's right. And it is
12 fair to say, your Honor, that I think that although
13 Gerry Matthews may not have known when the money
14 began to go through his account, what the source of
15 that money was, he was aware that his brother is
16 moving money through his account. That money is
17 being applied to his brother's credit card. So the
18 arrangement itself is something that was atypical.

19 THE COURT: Just to simplify it for my
20 own mind and understanding, essentially what you are
21 saying is that the crime that Mr. Gerry Matthews is
22 engaged in is allowing his account, substantial sums
23 of money coming through, that he at some point
24 really understood was not properly being earned.
25 And it wasn't his money, in any event.

1 MR. PIERPONT: Right. I think that is
2 in part what we are saying, but if you are asking me
3 specifically to point to affirmative acts or acts
4 that demonstrate that Gerry Matthews knowingly and
5 willingly joined the conspiracy, as we would have to
6 prove beyond a reasonable doubt if we were to go to
7 trial, the facts that I would point you to, your
8 Honor, are those that I have gone through before,
9 which is that there are -- there was steps that he
10 took to help his brother continue to maintain
11 control of the Palm House Hotel knowing at that
12 point that his brother had sort of created the
13 scheme involving the Palm House Hotel and knowing
14 that his brother -- or at least being on notice as
15 people confronted him -- had been robbing from that,
16 and he takes steps -- he sort of throws in his lot
17 with his brother to try to help him continue to
18 maintain control of the Palm House Hotel.

19 THE COURT: And I apologize if I am
20 being particularly dense this morning. And those
21 steps were what?

22 MR. PIERPONT: So those steps, your
23 Honor, would include executing a power of attorney
24 so that the developer -- so that Bob Matthews could
25 continue to act in Gerry Matthews' name. It also

1 includes a letter that was sent that was believed --

2 THE COURT: This is on page 5 of the
3 information?

4 MR. PIERPONT: That is correct, that's A
5 through C.

6 THE COURT: 19.

7 MR. PIERPONT: 19, A through C, on page
8 5 of the information.

9 And I guess maybe, your Honor, one thing
10 in particular to tie this together is if you look at
11 19B. He approves a letter that is meant to oust
12 someone that we know about who's name is -- who we
13 refer to as Minority Owner 1. He was one of the
14 individuals that confronted Gerry Matthews about
15 what his brother was doing. And so after working
16 with his brother and deciding to join the
17 conspiracy, he tries to remove this minority owner
18 from a position there to frustrate that minority
19 owner's ability to make things right at the Palm
20 House Hotel.

21 THE COURT: And the sending of the
22 email, the October 21st email, how does the
23 October 21st email play into furthering the
24 conspiracy?

25 MR. PIERPONT: So at that point, your

1 Honor, that email that is sent is an email that is
2 sent by Gerry Matthews to a co-conspirator in this
3 case appointing him as the new managing member -- or
4 somebody who would replace the Minority Owner 1 as
5 the individual who had the authority to run things
6 on the Palm House Hotel.

7 THE COURT: Okay. Anything further, Mr.
8 Pierpont, on that point, on this notion about what
9 the government's evidence would be about what Mr.
10 Matthews did?

11 MR. PIERPONT: Just give me one second,
12 your Honor.

13 THE COURT: Take your time.

14 (Discussion held off the record.)

15 MR. PIERPONT: So, your Honor -- excuse
16 me just one more minute.

17 (Discussion held off the record)

18 MR. PIERPONT: So, your Honor, again, I
19 think that you take that information, you couple it
20 with the fact that he is aware that money is moving
21 through his account for some atypical purpose. As
22 well, he learns about what happens and he takes
23 steps to throw in his lot with his brother. And,
24 again, to be clear, I know you had asked sort of how
25 we would demonstrate this. We obviously have the

1 emails. We have the bank documents. We have the
2 statements of witnesses and other documentation as
3 well.

4 THE COURT: Okay. All right, thank you,
5 Mr. Pierpont.

6 All right, Mr. Mowad, is there anything
7 you wish to add?

8 MR. MOWAD: Your Honor, just to clarify,
9 I believe the only misstatement was on a year. As
10 far as the ownership on paper, that wasn't 2012,
11 that was 2013.

12 THE COURT: All right.

13 And, Mr. Matthews, hearing the summary
14 of what you did, just specifically focussing on both
15 the acts you engaged in to both participate and
16 further the conspiracy, some of which are outlined
17 in the information about executing the power of
18 attorney, approving a letter, sending this email
19 about the management structure, do you disagree with
20 any of those in terms of your involvement?

21 THE DEFENDANT: No, sir.

22 THE COURT: Is there anything else you
23 wish to say about Mr. Pierpont's summary of what you
24 did?

25 THE DEFENDANT: No, sir.

1 THE COURT: All right. So does the --
2 returning back to the plea agreement. Does the
3 written plea agreement and the other matters we have
4 discussed today as outlined by Assistant U.S.
5 Attorney Pierpont fully and accurately reflect your
6 understanding of the agreement you have entered into
7 with the government?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you are aware that your
10 attorney, Mr. Mowad, and the prosecutor, Mr.
11 Pierpont, have discussed your agreement to plead
12 guilty? Are you aware of that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And is your willingness to
15 plead guilty today based on the prior discussions
16 between Mr. Mowad and Mr. Pierpont that have
17 resulted in the plea agreement that we have before
18 us?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And other than the promises
21 contained in the written agreement between you and
22 the government, has anyone made any promises that
23 are causing you to plead guilty here today, sir?

24 THE DEFENDANT: No, sir.

25 THE COURT: Has anyone made any threats

1 against you or is there anyone in any way forcing
2 you to plead guilty or otherwise coercing you to
3 plead guilty, sir?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you pleading guilty
6 today of your own free will because you are, in
7 fact, guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. If you are ready
10 to sign the plea agreement, go ahead.

11 MR. PIERPONT: May I approach, your
12 Honor?

13 THE COURT: Yes, please.

14 All right. Mr. Matthews, at this time
15 I'll have the clerk of court ask you how you wish to
16 plead. This is your last opportunity to decide
17 whether you wish to go through with this and enter a
18 guilty plea. Are you ready to be put to plea at
19 this time, sir?

20 THE DEFENDANT: I am, sir.

21 THE COURT: Would you like to have the
22 charge read to you or do you waive a reading of the
23 charge?

24 THE DEFENDANT: I waive a reading of the
25 charge.

1 THE COURT: All right, Ms. Perez.

2 THE CLERK: In the case of United States
3 America v. Gerry Matthews, Criminal Number
4 3:18CR43(VAB), as to Count One of the information
5 charging you with a violation of Title 18, United
6 States Code, Section 1349, what is your plea?

7 THE DEFENDANT: I plead guilty.

8 THE CLERK: Your Honor, the defendant
9 pleads guilty as to Count One of the information.

10 THE COURT: Thank you very much.

11 On the basis of the plea agreement and
12 the other matters discussed today, the answers given
13 by Mr. Matthews under oath, on the record, and in
14 the presence of his counsel, Mr. Mowad, to the
15 questions of the Court, the remarks of Mr. Mowad and
16 the remarks of Assistant U.S. Attorney Pierpont, it
17 is the finding of the Court in the case of United
18 States v. Gerry Matthews that the defendant is fully
19 competent and capable of entering an informed plea,
20 that the defendant is aware of the nature of the
21 charge and the consequences of the plea, and that
22 the plea of guilty is a knowing and voluntary plea
23 supported by an independent basis in fact containing
24 each of the essential elements of the offense.

25 The Court finds that the defendant knows

1 of his rights to plead not guilty and to a trial and
2 related rights, and that he's giving up these rights
3 by his plea of guilty; that he knows the maximum
4 possible sentence and any minimum required sentence
5 in terms of imprisonment, supervised release,
6 monetary fine, forfeiture, restitution, and payment
7 of a special assessment; that he knows of the
8 Court's obligation to consider the sentencing
9 statute and the sentencing guidelines; and that he
10 knows of and accepts the terms of any plea agreement
11 provision waiving his right to appeal or to attack
12 his sentence collaterally.

13 The plea to Count One of the information
14 is therefore accepted, and the defendant is now
15 adjudged guilty of that offense. Accordingly, a
16 finding of guilty shall enter and this case is
17 referred to the United States Probation Office for a
18 presentence investigation report.

19 Mr. Pierpont, I assume the government
20 has not filed a Section 851(b) second offender
21 notice?

22 MR. PIERPONT: No, your Honor.

23 THE COURT: Mr. Matthews, the United
24 States probation officer will prepare a presentence
25 report on you, and this report will be submitted to

1 the Court to assist it in determining the
2 appropriate sentence in your case. Please bear in
3 mind the probation officers work for the court, not
4 the United States attorney, so the cooperation of
5 that of your family and friends with the United
6 States probation officer will generally benefit you.
7 It is very important, however, that you carefully
8 discuss with your attorney what you say to the
9 probation officer because the presentence report is
10 very important in the process of determining your
11 sentence under the sentencing guidelines. In
12 addition, anything that you, your family or friends
13 or anyone else tells the probation officer could
14 have an impact on your sentence and other
15 consequences as well. You also have the right to
16 have your attorney present during your discussions
17 with the probation officer. Do you understand, sir?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: So please read and review
20 the presentence report with your attorney. At
21 sentencing I will ask if you have read the
22 presentence report, understood it, and given any
23 response you have to it to the probation officer or
24 to your attorney.

25 Mr. Mowad, I understand there is an

1 application for release pending sentencing; is that
2 correct?

3 MR. MOWAD: Yes, your Honor.

4 THE COURT: And so I understand it, we
5 will be releasing Mr. Matthews on his own
6 recognizance?

7 MR. MOWAD: That's my understanding,
8 sir.

9 THE COURT: There are other conditions
10 you all have agreed to?

11 MR. MOWAD: My understanding is, with
12 regards to travel, any international travel would
13 need to be approved by the office of adult
14 probation. As far as travel within the United
15 States, the contiguous 48 states and the other two,
16 Mr. Matthews' daughter is expecting his first
17 grandchild in the next week and a half. My
18 understanding is his travel to Maui, where his
19 daughter is going to be giving birth, has been
20 approved and is allowed by the office of adult
21 probation, and my understanding is the U.S.
22 Attorney's Office has agreed with that.

23 THE COURT: All right. Thank you, Mr.
24 Mowad.

25 Mr. Pierpont, what's the government's

1 position concerning any likelihood of fleeing or
2 posing any danger to any other person or the
3 community?

4 MR. PIERPONT: The government agrees
5 with Attorney Mowad what he proffered there. I
6 would note, your Honor, that we have -- our
7 investigation, Mr. Gerry Matthews has been aware of
8 our investigation as early as May. He has --

9 THE COURT: May of 2017?

10 MR. PIERPONT: May of 2017, that's
11 right. We have been in contact with him all that
12 time. He's known what we've been looking at. He's
13 not at any point fled or tried to flee or given any
14 indication of that. On top of that, Mr. Matthews, I
15 understand, has community ties here. He has a
16 business here as well.

17 From a flight of risk, the government
18 does not see it here, and so the government is
19 comfortable with a release on his own recognizance,
20 again subject to international travel, as was
21 described there. The government certainly doesn't
22 have an issue with him being there for the birth of
23 his first grandchild as well. And again, this is
24 not the case, your Honor, where the government I
25 think sees an ongoing risk to the community either.

1 So for those reasons, the government agrees with
2 Attorney Mowad's application.

3 THE COURT: Thank you very much, Mr.
4 Pierpont.

5 Based on the representations made by
6 counsel for the defendant, and given the
7 government's position as well, I hereby find that
8 release pending sentence on Mr. Matthews' own
9 recognizance, with reporting requirements to the
10 probation office, is appropriate in this case under
11 18 U.S.C. Section 3143. The application for release
12 is, therefore, granted, and we'll put whatever the
13 standard conditions are in place.

14 Mr. Matthews, you do understand that a
15 failure to appear for sentencing may subject you to
16 additional penalties for the offense of failure to
17 appear or for violation of a court order? Do you
18 understand that, sir?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: All right. Under Local Rule
21 32(f), I'm going to defer entering a scheduling
22 order. I would like the parties to meet and confer,
23 consult with probation to arrive at mutually
24 agreeable deadlines for disclosure of memorandum and
25 sentencing. I think we need an order on or before

1 March 16th.

2 Any questions, concerns regarding this
3 schedule? Mr. Pierpont?

4 MR. PIERPONT: Not from the government,
5 your Honor.

6 THE COURT: Mr. Mowad, any questions,
7 concerns regarding that schedule?

8 MR. MOWAD: No, your Honor.

9 THE COURT: All right. Anything
10 further, Mr. Pierpont?

11 MR. PIERPONT: Can I just have one
12 moment, your Honor?

13 THE COURT: Yes, please.

14 (Discussion held off the record)

15 MR. PIERPONT: So, your Honor, I just
16 want to be clear, I know we were -- some of us were
17 here at a previous date last time around. I know
18 that Mr. Matthews had the opportunity to meet with
19 probation. I don't think he has yet gone through
20 processing with the marshals, and so that would be
21 the next appropriate step, something that I would
22 ask Mr. Matthews to go through while we're here and
23 everybody is here rather than doing that at a later
24 date.

25 THE COURT: That's fine. Does that mean

1 we need to push back the 3/16 deadline? It's still
2 fine, though?

3 MR. PIERPONT: The 3/16 deadline is
4 fine, your Honor. It's just one thing I wanted to
5 make sure is on the record.

6 MR. MOWAD: Before we leave today we'll
7 meet and go through processing with the United
8 States marshals.

9 THE COURT: Anything further from you,
10 Mr. Mowad?

11 MR. MOWAD: No, sir.

12 THE COURT: All right, thank you both.
13 We're adjourned.

14 (Proceeding concluded 10:10)

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2 I certify that the foregoing is a correct
3 transcript from the record of proceedings in the
4 above-entitled matter.
5

6 3/29/18

7 Date
8

9 /S/ Sharon Montini

10 Official Reporter
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